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### **REMARKS**

This response is intended as a full and complete response to the Notice of Non-Compliant Amendment and earlier mailed Final Office Action. In the Office Action, the Examiner notes that claims 1-9 and 21-28 are pending and stand rejected. By this response, claims 1 and 21 are amended; all other claims remain unamended, and arguments addressing the Examiner's rejections in each of these claims are provided below.

In view of the following discussion, Applicants submit that none of the claims pending in the application are anticipated under the provisions of 35 U.S.C. §102 or obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

### **REJECTIONS**

#### **Rejection under 35 U.S.C. §102**

The Examiner has rejected claims 1-2, 4-6, 8-9, 21-25 and 27-28 under 35 U.S.C. 102(e) as being anticipated by Shoff et al. (U.S. Patent 6,240,555, hereinafter "Shoff"). Applicants respectfully traverse the rejection.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984)(citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 U.S.P.Q. 193 (Fed. Cir. 1983)) (emphasis added). Shoff does not teach a system for performing the functions as claimed and described via one way hyperlinking discussed in detail below. As such, Shoff fails to disclose each and every element of the claimed

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invention, as arranged in the claim. Specifically, Shoff presents, "the existence of a supplemental content data stream over the dedicated channel indicates that the program being received on the selected channel is interactive compatible." In response to such existence, a "viewer computing unit" automatically accesses an EPG data structure to retrieve therefrom some means of identifying a target specification. Such means might comprise "a pointer to a memory location at the head end, or a pointer to a memory location on a locally running CD-ROM, or a hyperlink to a target resource located at an independent service provider." However, no teaching, disclosure or suggestion is presented for an encoder or method or transmitting and broadcasting the supplemental content in accordance with the subject invention.

Applicants' independent claims 1 and 21 recite:

"1. A system for broadcasting information over a television distribution network comprising:

- a) a network headend for accessing information from one or more sources, and broadcasting said information;
- b) a plurality of downstream channels interfaced to said headend for transmitting said information;
- c) an encoder in the network headend adapted to transmit a single I-frame a plurality of times in at least one of the plurality of downstream channels; and
- (d) a plurality of terminal devices for receiving said downstream channels, each said terminal device including:
  - 1) a tuner for receiving and selecting said downstream channels; and
  - 2) a terminal processor for receiving channel selection and information requests from a user, and instructing said tuner to select one of said downstream channels, said terminal processor including programming for receiving an information request from a user, and in response thereto, instructing said tuner to select, via one-way hyperlinking, one of said downstream channels on which said requested information is being transmitted from said headend.

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21. A method for requesting and receiving information in a television distribution network comprising:

a) providing a network headend for accessing information from one or more sources, and broadcasting said information;

b) providing a plurality of downstream channels interfaced to said headend for transmitting said information, a portion of said information being a single I-frame encoded and transmitted a plurality of times in a single downstream channel;

c) providing a plurality of terminal devices interfaced to said downstream channels for receiving information on said channels, and formatting said information for display on a display device, each said terminal device including a tuner for receiving and selecting said downstream channels, and a terminal processor for receiving information requests from a user, and instructing said tuner to select, via one-way hyperlinking, one of said downstream channels;

d) receiving a request for information in said terminal device from an input device;

e) identifying a one of said downstream channels on which said information is to be transmitted;

f) causing said tuner to select, via one-way hyperlinking, said one of said downstream channels; and

g) receiving said requested information with said terminal device.

The subject invention differs from the above-quoted portion of Shoff in that the additional content or user requested information is more readily available and processed quicker than otherwise disclosed or possible in the cited art. By having a single I-frame encoded and transmitted multiple times in a single channel, "the set tops that tune to the channel get an I-frame within a short enough time period that the viewer is satisfied with the service," Page 5, lines 19-20 of Applicant's specification. Similar recitation and discussion of this feature is presented at Page 14, lines 19-23 of Applicant's specification; no new matter has been added. Since, Shoff only discusses where the additional content may be located (i.e., a memory location in the headend, locally running CD-ROM or a hyperlink), there is only a reasonable expectation that such information is provided via typical and ordinary encoding means and principles and nothing more (i.e, MPEG1, MPEG2). The cited art does not teach an encoder or

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transmission process having a single I-frame that is multiply encoded in a single downstream channel. In fact, such feature is counter-intuitive to existing types of systems where bandwidth considerations may not provide for the extra processing required to achieve the desired result. Accordingly, it is respectfully submitted that Shoff does not disclose each and every element of the claimed invention, arranged as in claims 1 and 21.

As such, Applicants submit that independent claims 1 and 21 are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Furthermore, claims 2, 4-6, 8-9, 22-25 and 27-28 provide additional limitations and are dependent directly or indirectly from Independent claims 1 and 21. As such, and for at least the same reasons set forth above, Applicants submit that these dependent claims are not anticipated by the teachings of the prior art and fully satisfy the requirements of 35 U.S.C. §102. Therefore, Applicants respectfully request withdrawal of the rejection of claims 1-2, 5, 9, 21-22, 24 and 28.

### **Rejection under 35 U.S.C. §103**

#### **Claims 3, 7 and 26**

The Examiner has rejected claims 3, 7 and 26 under 35 U.S.C 103(a) as being unpatentable over Shoff in view of Eyer et al. (U.S. Patent No. 5,982,445, hereinafter "Eyer"). Applicants respectfully traverse the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather, the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 U.S.P.Q. 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 U.S.P.Q. 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The combination of Shoff and Eyer fails to teach or suggest Applicants' invention as a whole.

As indicated earlier under the arguments regarding anticipation, Shoff merely discloses the accessing of target specification information via a number of means (one

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such means including hyperlinking) for accessing supplemental content of a program on a separate channel. Nowhere in Shoff is there any teaching or suggestion of an encoder or transmission process having a single I-frame that is multiply encoded in a single channel. Furthermore, Eyer does not bridge the substantial gap between Shoff and Applicants' invention. Specifically, Eyer is introduced (as per the Examiner's Advisory Action dated December 16, 2004) to allegedly teach a first multiplexer 115 in FIG. 1 for multiplexing information streams on a downstream channel as it was indicated by the Examiner that Shoff fails to disclose such first multiplexer. Accordingly, one skilled in the art would not be motivated to adapt the teachings of Eyer to the teachings of Shoff to arrive at Applicants' invention. Therefore, the combined references fail to embrace the problems that the Applicants' invention solves. Hence, the combination of Shoff and Eyer fails to teach or suggest Applicants' invention as a whole.

Even if the two references could somehow be operably combined (and Applicants submit that they cannot be operably combined), the combination would merely provide basic programming, supplemental information (some of which may be HTML) and a multiplexer for multiplexing both types of information together for transmission, but would plainly not have the beneficial aspects of providing a viewer with satisfactory service by the availability of increased I-frames to quickly provide the request information/additional content. Therefore, since the combination of Shoff and Eyer fails to teach or suggest the improvements and features of the subject invention, the combined references fail to teach or suggest Applicants' invention as a whole. As such, Applicants submit that claims 3, 7 and 26 are not obvious and fully satisfy the requirements of 35 U.S.C. §103 and are patentable thereunder. Therefore, Applicants respectfully request that the rejection be withdrawn.

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### CONCLUSION

Thus, Applicants submit that none of the claims, presently in the application, is anticipated or obvious under the respective provisions of 35 U.S.C. §102 or §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: \_\_\_\_\_

5/25/05



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